IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHAEL W. HILL, et al., : C.A. No. 05-160 Erie
Plaintiff : C.A. No. 03-323 Erie
: C.A. No. 03-355 Erie
v. : C.A. No. 03-368 Erie
: C.A. No. 04-011 Erie
JOHN J. LAMANNA, et al., :
Defendants :

Video Conference Deposition of WILLIAM COLLINS, DDS, taken before and by Janis L. Ferguson, Notary Public in and for the Commonwealth of Pennsylvania, on Tuesday, December 5, 2006, commencing at 10:00 a.m., at the offices of the United States Attorney, 17 South Park Avenue, Suite A330, Erie, Pennsylvania 16501.

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Reported by Janis L. Ferguson, RPR
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WILLIAM COLLINS, D.D.S., first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DEVLIN:

Q. Dr. Collins, my name is Neal Devlin, and I represent Michael Hill and several other former prisoners or current prisoners at FCI McKean in a series of lawsuits that have been consolidated for discovery purposes.

You are named as a Defendant in the lawsuit in which Mr. Hill is the Plaintiff, and it's in that lawsuit -- under that lawsuit that we're deposing you here today.

Dr. Collins, have you ever been deposed before?

A. Yes, I have.

Q. Okay.

A. Yes, I have.

Q. Then we can -- you know how this works, then. A couple of ground rules that are maybe more important because we're doing this via video. We have had one round-through in these cases with video depositions, and there is a bit of a delay between what I say and when you hear it. And so because of that, I'm going to do my best to pause at the end of my questions and wait until you respond. If for some reason we start talking over one another, and I want to try

to clarify it, what I'll do is I'll put my hand up, just so you can see that, and that will be a signal to both of us to stop talking, and then I'll try to reask the question.

Beyond that, the only thing I would request is that you make all of your answers audible and that you do your best to speak slowly, only because the court reporter is on our side of the connection, and so I know it will be harder for her because she's not in the same room as you.

A. Okay. No problem.

MR. COLVILLE: Let me also -- keep your voice up.

A. Can you hear me okay when I speak right now?

Q. We can.

A. Is it a good level?

Q. It is. And is it the same here? I have been accused of being too loud, never too quiet. So we're all right?

MR. GOLDRING: We can hear you fine, Neal.

MR. DEVLIN: Okay, great.

BY MR. DEVLIN:

Q. Dr. Collins, I'd like to start with simply asking you your educational history from undergraduate on, through whatever the last educational program you were involved in.

A. Okay. I graduated from Howard University in 1969. I then attended Temple Dental School in 1971. I graduated there in 1996 -- really, April of 1996. I then went into

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private practice of dentistry here in Washington, D.C. for approximately 10 years. At the end of that 10 years, I then secured a position with the D.C. Department of Corrections, and I then worked for the D.C. Department of Corrections for approximately 13 and a half years. At that time -- the end of that time, I then made an application to the Federal Bureau of Prisons and subsequently took a position with the Federal Bureau of Prisons. That was in, then, 1999; January 17th, 1999.

Q. Okay. I may have misheard you, but just so the record is clear, did you graduate from Temple Dental in 1976? Is that --

A. That is -- that is correct.

Q. Okay. I thought I had heard --

A. That is correct.

Q. I thought I had heard '96, and that's why I wanted to clarify that.

MR. COLVILLE: You did hear '96.

MR. GOLDRING: I think that was just a misspoken word.

A. Did I say '96? Oh, I'm sorry. That needs a correction on my part. 1976. Please.

Q. After being hired by the Federal Bureau of Prisons on January 17th, 1999, where were you located or stationed?

A. I was stationed then at Federal Correctional

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Institute McKean in Bradford, Pennsylvania.

Q. And how long did you work at FCI McKean?

A. I worked from January 17th of 1999 to November 3rd of 2005. At that time I was able to retire.

Q. Since November 3rd of 2005, have you engaged in any other employment related to dentistry?

A. Yes, I did, for a period of four months. From February of 2006 to the end of May of this year, 2006, I worked for Unity Healthcare as a general dentist. General practitioner.

Q. Okay. So am I correct, then, from your graduation from dental school until your retirement from FCI McKean in 2005, all of your dental work and all of your work in the dentistry field was performed within a correctional institution or within a facility, a correctional facility?

A. No -- make sure I understood what you said, Mr. Devlin. From 1976 to 1985, I was in private practice.

Q. Okay.

A. And then from 1985 until I retired in 2003, I was with a Government practice. I did, however, continue to maintain a private practice part-time until approximately 1991 or '92.

Q. Okay. So from 1976 to 1985, you were in private practice in Washington, D.C. Is that correct?

A. That is correct.

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Q. And then from 1985 until, let's say, about 1991, you were working for the State Department of Corrections in Washington, D.C. and also maintaining a part-time private practice. Is that correct?

A. That is correct.

Q. And then from 1991 until January 17th, 1999, you were working for a State Correctional Facility in Washington, D.C., correct?

A. That is correct.

Q. And then from 1999 until November 3rd, 2005, you were working for the Federal Bureau of Prisons, and specifically at FCI McKean.

A. That is correct.

Q. Great. While you were in private practice from 1976 to 1985, what type of dental practice was it? And what I mean by that is, general dentistry or any specialized dentistry?

A. I was in general dentistry.

Q. Were you a solo practitioner, or were you in any type of partnership with someone else?

A. I was in partnership with another dentist, who happened to be my father.

Q. Upon beginning work at FCI McKean, can you describe for me both your position, and if it changed, any changes in your position, and then your job duties for each

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position you held at FCI McKean.

A. When I took the position at FCI McKean, I came in as the chief dental officer, and I maintained that position until I retired November of last year. Again, as I said, November 3rd, 2005. Did you want me to go ahead and state some of the responsibilities?

Q. Yes. If you don't mind.

A. Okay. At that time, I was responsible for the maintenance of the entire dental clinic. There was at that time -- really, I was by myself. I was responsible for the inmate dental assistant that we had at that time. I was responsible for running sick call, for providing also routine care, the routine care clinic. And just about everything that would pertain to the dental clinic came under my purview.

Q. Did you have anyone working within your clinic, any dental hygienists, assistants, or support staff?

A. When I first started in 1999, the only person working in the clinic other than myself was the inmate dental assistant, who continued to work there in -- until approximately -- I would say about in April or May of 2000, at which time we then secured a -- a contract dental assistant. And that's when -- that was the first contract dental assistant I had. And after that, we continued to have a contract dental assistant until I retired.

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We also secured a dental hygienist in the years -- I believe it was 2001. Again, approximately in June, as I recall. And also at that time we got a part-time dentist who worked six hours a week in the dental clinic, and he worked primarily at the camp.

Q. At the camp? Did I understand that correctly?

A. At the camp, that is correct. Late -- later, that particular dentist -- Dr. Sterba is his name -- left the clinic, and we secured a second contract dentist, whose name is Dr. Gary Greer. And Dr. Greer came on board approximately -- beginning about February or March of 2004. And he, unlike Dr. Sterba, was able to work 30 hours a week, which is the maximum a contract employee is allowed to work. And he was -- is still there working to this day.

Q. Can you spell Sterba for us, Doctor, if you don't mind.

A. Yes. His first name is Wayne, and the last name is spelled S-T, as in tall, E as in echo, R-B as in ball, and A as in alpha.

Q. Doctor, did you have set hours while working at FCI McKean?

A. Yes, we did. The hours changed slightly at the whim of the administration at that time, but the hours were basically, in the morning, generally from around 6:30 to 7:30, sick call was -- presented for the patients. After

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that, from approximately -- oh, I would say 8:00 or 8:30 on, we then proceeded to treat the patients that were -- had been seen on sick call. And then in the afternoon, we attempted to treat patients from the routine care list.

Q. You had indicated --

A. I might add also -- I might add also, Mr. Devlin, that at that time, also, a patient could always access the clinic through an emergency setup, if you will. If that patient felt that he has had a -- an emergency, he could have his -- from housing unit officer or his counselor or his boss, his supervisor, to call the clinic, and we could then provide that particular person with the time that the patient could come to the clinic that day for examination.

Q. So hypothetically, Doctor, if a prisoner had a problem, let's say in the middle of the night, or at a point in time when you were not there, what procedure would they follow to try to get emergency dental care?

A. They would usually have the -- either -- at that time the housing unit officer to call the medical clinic. The -- there is usually -- but there is always a person there, a medical staff person there, at least until 12:00 midnight. In fact, at one point it was 24-hour coverage.

But, say, up to 12:00 midnight, that patient would be able to contact the medical staff person who would be in

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the medical clinic, and then they would tell that patient to come down for an examination.

After 12:00 midnight, if -- with no -- no medical staff person in the clinic, if a patient had a problem, he could still receive medical care, in that there is a physician that was on call at all times who would come in for -- to treat a patient if that problem is severe enough.

Q. Okay. You had indicated, Doctor, that the hours varied a little bit based upon what the administration wanted. And the reason I bring that up is my next question deals with the chain of authority within the dental clinic. And so you indicating that the administration made certain decisions, that led me to conclude that there were different responsibilities for, for instance, administration, warden, you.

What was the chain of authority, if that -- if that phrase means anything in this context, for the dental clinic?

A. Well, chain of command usually for me would -- was that as the chief dental officer, my immediate supervisor was the clinic director, who at that time was Dr. Olsten. From Dr. Olsten, it then proceeded upward to the associate warden for operations. And, of course, the next step would be the warden of the facility at that time.

In order to maybe clear up a little, maybe,

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fuzziness about this, Mr. Devlin, when I said that the hours varied slightly, that was due to the fact that they sometimes -- during that time they changed the time that the inmates were allowed to go to breakfast. And as the population of the institution increased, they found that the dining hall could not house everybody at the same time. So then they had to have the people to come in -- or the inmates to come in, in sort of staggered -- staggered phases. Consequently, that caused us to have to change our hours of the sick call clinic. But it was always in the morning, and the times were always generally -- near about the same; within a maybe 30-minute variance.

Q. I understand that. I appreciate that clarification.

Would it be fair to say, then, that the dental clinic operated within the same purview and sort of under the same umbrella as the medical clinic as a whole? Is that correct?

A. Oh, yes. The dental clinic is considered a part of the medical clinic. In fact, many people tend to isolate dental problems away from medical problems, but dental problems are medical problems. It's simply medical problems that affect the mouth. And the dental clinic definitely is a part of the medical clinic, and as such -- in fact, our sick call hours were completely the same as the medical

clinic sick call hours. That's the way it was set up.
Q. Okay. As far as physical space, Doctor, was the dental clinic, was there a -- was there a portion of the overall medical clinic that was sort of your offices and the dental offices, or was it different? What was the relationship spatially between the medical clinic and the dental clinic?
A. The dental clinic was in -- is housed in the same building as the medical clinic. And when the patient enters into the medical building, they enter at one end of it, which is into a common waiting area or waiting room. There are three doors or -- that face off into that common area. One is for the entrance and departure for people working in the pharmacy.
Q. Okay.
A. The second door is for entrance into the dental clinic. And the third door is for entrance into the rest of the medical clinic.
Q. Okay. In that waiting room, are there any employees of either the medical or dental clinic or the prison in general who are in that waiting room?
A. No, there are not. However, there is a window in the waiting area that allows the medical record technicians to look out into the waiting room area, so that the patients are being observed from time to time. And, also, if there

are any patients -- I'm sorry -- if there are any questions that the patient may have, they can then go to that window and speak with the medical record technicians.
Q. So, Doctor, again to -- just as a hypothetical, so I can understand the general procedure, if during the sick call hours a prisoner had a dental problem that they wished to have addressed, what would they do first physically? I mean, they would come into the waiting room and then what would happen?
A. They would come into the waiting room and go to the -- that window, that -- that the medical record technicians use and state that they were here for a dental problem. The medical record technician would then take down their name and pull the record, pull the medical record jacket and then bring that jacket over to the dental clinic, in which I would be waiting, and give that to me so that I could then call the patient into the clinic for treatment. That was the standard procedure for handling sick call patients.
Same thing if they had some other medical problem. Their record would be pulled, and they would then be shown to the appropriate healthcare provider in the medical clinic.
Q. Okay. If a prisoner were to come in for routine dental care -- and later on, I'll want to get into the

differences between those and how that happens. But for right now, if they had routine dental care, would they have a set appointment that they would show up for? Is that how that would work?
A. Yes, definitely. The Federal Bureau of Prisons mandates that you have a list for treatment -- rather, I should say, a patient has a required treatment, so that there's some orderly handling of the -- of the inmates at the institution. And what transpires is that the inmate submits an inmate request to staff or a cop-out requesting to have his teeth cleaned or stating that he would like to be put on the list. His name is then at that time entered onto the list, and as the patients ahead of him are seen, his name gradually comes up to the top of the list, and then at that time he is shown into the clinic and his routine care, treatment begins.
Q. In that procedure you just laid out, Doctor, do you have any involvement in reviewing those -- and I'll refer to them as cop-out forms, because that's how I've seen them, and I know that's how you just referred to them. Do you have any involvement in reviewing those cop-out forms at any time when -- either before they are put on the list or after they are put on the list, but before the person's appointment time comes up?
A. I generally see them before they are put on the

list. Before they are put on the list. And I read them and -- you know, so that if there's anything, perhaps, significant that might require perhaps immediate attention that the patient might not be aware of, I can then put them on call-out.
Q. You had indicated "generally". That doesn't always happen?
A. It does happen. Actually -- if I said generally, it does happen. All the time. I read them when they come in. I then pass them to my dental assistant, who then at that time would enter them onto the list in the computer for chronic care patients, for routine care patients.
Q. And you had indicated that the sick call time for both dental problems and just broader medical problems, nondental medical problems, was the same period of time; is that correct?
A. That is correct.
Q. Doctor, did you review any documents in anticipation of this deposition?
A. Yes, I did.
Q. Okay. And what documents did you review?
A. I reviewed the patient's dental history and also my own declaration. And I believe that is it. Let me just check with my two attorneys here.
Q. Certainly.

(Discussion held off the record.)
A. Mr. Devlin, the other records that I reviewed also was the patient's medical records for that period of time that he came to McKean, up to that point where he came to my clinic for the extraction of the tooth.
Q. Okay. And, obviously, when you say "the patient", you're referring to Michael Hill. Is that correct, Doctor?
A. That is correct.
Q. Do you have an independent recollection of Michael Hill? Beyond his medical records and your review of those records, do you remember him separate and apart from the notes you took and the entries you made in those records?
A. No, I do not. I had never seen or met Mr. Hill until he came to the clinic to have the tooth extracted, which was November the 27th.
The only other knowledge that I had of -- that he existed was that his counselor, Miss McNintch, asked me if he had been to the dental clinic, because he had been complaining of a problem. And I told her, no, he had not; send him to the dental clinic at sick call. Other than for having spoken with her on approximately, I would say, three different occasions, I knew nothing about Mr. Hill. I would not have been able to pick him out in a crowd or anything.
Q. Those conversations you had with Ms. McNintch, do you have a recollection as to when those occurred? And if

you have a specific recollection, that's great. If you don't, and if it's easier to use the date of the extraction, which I believe is November 27, '02 as a benchmark, that's fine as well.
A. All I can remember, Mr. Devlin, is I believe she first mentioned something to me approximately around about in August, maybe the first part of September, that she had an inmate, Michael Hill by name, that had been complaining of a -- a tooth problem. And I at that time told her, well, send him down to sick call to be examined.
She then saw me, as I recall, approximately three weeks later and asked me if he had been to sick call. I assumed that she was speaking about Mr. Hill. And I said, well, no, he has not been to the dental sick call yet.
When she asked me again, I believe at that time he had been to the dental clinic, and I had performed the extraction on him.
Q. Okay. So that I make sure that I'm clear on that -- and I think I am. But it sounds like two occasions -- two of the conversations you had with Ms. McNintch occurred before the extraction, and one occurred after. Is that correct?
A. That is -- that is correct.
Q. Okay. Beyond those conversations you had with Mr. Hill's counselor, is it fair to say that all of your

knowledge regarding Mr. Hill is -- is contained in the dental records that we have?
A. That is correct.
Q. Okay. What I'd like to do, then, Doctor, if it's okay with you, is go over those dental records. Beginning with the November 27th, 2002 entry. Again, I -- but I also want to confirm that we're looking at the same documents here. The copy I have of the medical records is the copy that I believe I took off of your declaration, so it does have a control stamp on the top from the Court. I don't know if that's the same copy you have. And your lawyers can probably help you with that to see if the normal header that the District Court puts on them is on your copy.
MR. COLVILLE: Neal, on the bottom right-hand corner, is there a Bates stamp, 06?
MR. DEVLIN: No, I have a different copy.
MR. COLVILLE: Okay. That might make it easier.
Q. My copies, Doctor, it is a two-page dental record. The first page -- at least what I'm calling the first page -- starts with the November 27, 2002 entry by you. Below that is a -- it appears to be a 3/26/03 entry, again by you. And then the -- what I have as the second page is an entry by J. Rose, D.M.D. at USP Lompoc. Is that the same record --
MR. GOLDRING: That 11/27, is this the one that

says 14:00 hours on it? Is that the one that you're --
MR. DEVLIN: Yes.
MR. GOLDRING: Okay.
MR. DEVLIN: So you have that page, as well as the second page, which is the USP Lompoc entry, January 2001 at 08:50.
MR. GOLDRING: Yes.
MR. DEVLIN: What I'd like to do, then, is I'd like to ask the court reporter to mark this two-page dental history, dental treatment record, as Collins Exhibit No. 1.
(Collins Deposition Exhibit 1 marked for identification.)
BY MR. DEVLIN:
Q. All right, Doctor, looking at the first page of Collins No. 1, along the left-hand side is the entry, the date 11/27/2002 at 14:00 hours. Is that correct?
A. That is correct.
Q. That date, November 27th, 2002, is the date when you extracted Mr. Hill's tooth. Is that correct?
A. That is correct.
Q. And I realize we went over this a little bit before, but just so we're clear, is that the first occasion on which you personally examined Mr. Hill?

A. That is correct.
Q. And is that actually the first date upon which you met Mr. Hill?
A. As far as I recall, that is the first time I met Mr. Hill.
Q. Do you have an independent recollection of that tooth extraction; of the visit on November 27th, 2002?
A. I can't say that I have an independent recollection of it, Mr. Devlin. The problem is that, in all honesty and sincerity, in treating so many patients, I can't remember every single absolute item that was going -- that was going on or taking place at the time. But if I can refer to my medical record, that -- I have a fair idea of what was taking place at this visit.
Q. And, Doctor, that is fair enough and, quite frankly, the answer I completely expected. I just wanted to make sure that to the extent that you did have knowledge of that visit that wasn't represented in this note, that we covered everything.
So with that understanding, then, can you take me through this entry and describe for me what occurred during the visit on November 27th, 2002.
A. Yes, I can. When the patient entered the clinic, he came in and stated, as I have in quotations there, "My tooth aches." And he then pointed to Tooth No. 13.

I might also state that at this time, 14:00 hours is not the usual time for sick call. This is -- he had come over apparently from the segregated housing unit. And I cannot remember exactly -- I would think that possibly he may have spoken with an officer over there who called our clinic, or he may have spoken to one of the mid-level help providers that is a physician assistant or possibly a nurse practitioner who makes rounds every day in the segregated housing unit that he was having a problem. And that was conveyed to the dental clinic. But I just wanted to clear that up as far as the time was concerned.
Q. I appreciate that.
A. Right. He -- at that point, when he pointed to No. 13, I then asked -- of course, under the observation, or "O" as it is represented on his record, I did a medical history review, and he showed that he appeared to be normal, he had no -- well, when I say "normal", he had no known drug allergies, what is what we are primarily concerned about, because certainly we don't want to inject him with anything or prescribe anything that's going to have an adverse reaction.
I then, under -- next asked him to what degree did he feel his pain. And that is what we call a pain index factor. And that is what the "PI" on -- in his record represents. The factor is based on a scale of zero to 10;

zero being no pain and 10 being severe pain. He stated that he rated his pain at approximately a four.
The next thing was to look at the tooth which he was complaining about, and I had him to open his mouth, and I took the handle of my mouth mirror and tapped -- here it says percussion -- his tooth of which he was complaining. He stated that it hurt him more when I tapped it, so I put down a plus beside percussion to indicate that it showed sensitivity.
The next step was to palpate or press around the tooth; this being to see if there were any swelling or if there primarily was sensitivity in the tissue around the tooth. And he said it was, when I pressed on the area above the root of his tooth, No. 13. He stated that it was sensitive.
I then decided that I would take an x-ray of his tooth, and on the next line you can see "PAX", which is periapical x-ray. And that simply means that an x-ray was taken of the tooth and included the actual end of the tooth or the apex of the tooth as well, so that we might see if there were any signs of a problem there on the x-ray that the tooth was experiencing.
When the x-ray was developed, I was able to observe that the restoration that was in the tooth was close to the nerve of the tooth or the pulp, as we call it, and I

stated it was even possibly communicating with the pulp.
The reason that I said "possibly" is because on occasion, the way that an x-ray is taken, it may appear to be in contact with the pulp, but it might not quite be. So in as far -- and the only way that you can determine this is, of course, to take the filling out. And at that time I was not -- did not want to take the filling out. In fact, the filling -- the only -- in fact, the only thing wrong with the tooth, other than being sensitive and being -- having a palpation problem, was nothing. Everything else on the tooth -- the tooth was intact, the filling was intact, the filling was not cracked, the tooth was not cracked. There was no open border between the tooth and the filling itself.
So the only thing that I had observed was that the tooth was sensitive to percussion, sensitive to palpation, and had a very large filling present that was in excellent shape, in fact.
Q. Okay.
A. Then explained to the patient under the A, which is assessment, that his tooth -- which I indicated No. 13 -- was suffering from what we call irreversible pulpitis, which simply means that the pulp -- or as many people refer to, again, the nerve -- in the tooth had reached such a stage that there was no treatment that could reverse the

inflammation and infection that it was experiencing.

I also indicated that this had occurred from him having former deep caries. That number two with like a little degree sign beside it means secondary tooth. So his problem was that the pulp or the nerve in his tooth was infected and inflamed, secondary to or, if you will, as a result of having former deep caries, or deep decay.

Q. Dr. --

A. At that time -- yes.

Q. Let me stop you there, because I'd like to ask you a couple of questions about this and then go on and complete the note. I understand that you haven't completed this entry yet. But --

A. Surely.

Q. -- I think it would be easiest to ask the questions now.

When you say that the restoration was possibly communicating with the pulp of the tooth, what do you mean by "communicating"?

A. I mean that it is possible -- well, that it is perhaps actually in contact with the pulp of the tooth.

Q. The restoration that was in the tooth, in laymen's terms, is that a filling? Is that what that was?

A. Yes, it -- that is absolutely correct.

Q. And that filling, am I correct that there are both

temporary and permanent fillings that can be placed in teeth?

A. That is correct.

Q. Okay. And was this a temporary or a permanent filling in Mr. Hill's tooth?

A. This was a temporary filling that was in Mr. Hill's tooth of a unique nature. According to the material that Dr. Rose used, as he indicated in the second entry, which I think you will -- you will get to in a -- in our discussion, this temporary filling or medicated filling -- well, temporary filling, if you will, is made up partially of -- it's sort of a hybrid filling. It's half silver and half cement. And it is a very durable filling. And a lot of dentists like to use it, including myself, because of the fact that the cement portion of this filling helps to maintain the filling in place, thereby giving a greater wear factor and a greater chance of remaining in the patient's mouth without any problem until such time that you decide to replace it.

Q. Okay. You had indicated that the filling was also medicated. What does that mean?

A. That means that at times it -- it -- it will have ingredients in it that are sedative or calming to the pulp in the tooth. And could I stop for one second.

(Discussion held off the record.)

A. Mr. Devlin, I'm back. Thank you.

Q. No problem. And, Doctor, the one thing I didn't state that I should have, if at any time you need a break either to confer with your counsel -- with counsel or for any other reason, just let me know, and that won't be a problem.

A. Okay. Thank you.

Q. Okay. So just so -- where we were so I can get my bearings, you determined that -- well, rather, Mr. Hill had a temporary medicated filling in his No. 13 tooth when you examined him, correct?

A. That is correct.

Q. Okay. And after going through the various -- utilizing the various diagnostic tools you described for us shortly ago, you made the conclusion or the -- if I can, the diagnosis that he had irreversible pulpitis. Is that correct?

A. That is correct.

Q. Okay. Can you tell me all of the bases upon which you based that diagnosis of irreversible pulpitis.

A. The patient was experiencing pain with the tooth. They -- during his examination, under my observations, the -- there was nothing in -- that I observed that -- that I would say was -- be abnormal about the tooth or the filling that's -- was in place that would cause him to have

a problem with the pulp or the nerve in the tooth. In other words, there was not an open border or margin where food or liquids such as the saliva or coffee or tea or soda could get between the tooth or the filling and cause him discomfort. There was no decay present on the tooth that had occurred since he had the filling put in place that could possibly be triggering his discomfort. The tooth -- the filling was not lose, where, again, you would have the seepage problem with food and liquids getting down into the deeper structures of the tooth.

Consequently, the only thing that I could make a determination of that had caused him to have a problem was that he had a -- suffered earlier a cavity, which is caused by bacteria, and the cavity had progressed to the point where it was close enough to the pulp in the tooth to infect it.

Despite the fact that Dr. Rose attempted to place a temporary filling there to perhaps get -- allow the tooth a sufficient amount of time to perhaps have -- fight this infection, the filling -- this procedure did not work because the -- sort of the same kind of thinking of kind of closing the barn door after the horse has gotten out. The pulp had already been infected. And despite the fact of a very well-placed filling being present, there was nothing else that could be done for the tooth at that time, due to

the fact that the pulp was now suffering from an infection. The infection was manifesting itself as pain to the patient. And, in fact, on the x-ray, although I admit I did not indicate it here, the area around the root of the tooth, as I recollect, was a little questionable, but I did not mention it because I -- it could -- it could be debatable.

Q. Understanding that I'm going to restate a little bit of what you just said, I want to make sure I understand all of the bases upon which you came to your conclusion that this was irreversible pulpitis.

What I have is the nature of Mr. Hill's pain and specifically that he was experiencing pain and that your examination of the tooth did not disclose any problem with the tooth in the things you described, such as seepage or allowing food to get in or anything like that. Therefore, those things were not causing the pain.

So am I correct that you concluded that the pain must be being caused by the problem with the pulp or the nerve of the tooth?

A. That is correct.

Q. Okay. You also indicated that the x-ray presented some questionable aspects of the root, but that that -- am I right -- and tell me if I'm not. But am I right that that wasn't solely a basis for your conclusion of irreversible pulpitis; it was really the pain and the nature of the pain

that led you to that conclusion?

A. That is absolutely correct.

Q. Okay. Is there anything beyond the pain and the physical presentation of the tooth that led you to conclude that this was irreversible pulpitis?

A. The fact that the patient had the filling in place for a -- as long a period of time as he did indicated also that the tooth, if we're going to have been able to have -- I should say, have fought off the infection, he would not be experiencing the pain that he was experiencing at the time that I saw him. In other words, the fact that he was experiencing pain after the filling had been in place as long as it had definitely indicated that the tooth was not going to improve.

Q. In Mr. Hill's complaint that my tooth aches, if you remember specifically in this instance, great, and if not, in general, would you question him or did you question him as to specifically does it ache more at certain times or other times, do certain things cause increased pain, such as air, cold liquids, those types of things?

A. As I recall, Mr. Devlin, I usually do ask that question. I would ask -- would have asked him, does it hurt you when he bites down on it, perhaps. And it -- and I would think that it would, since if I tapped on the tooth with my mirror handle, which sort of simulates the opening

and closing of the mouth and of the teeth coming together, then certainly he would have felt discomfort when he attempted to eat any kind of food.

Usually, as you said, we ask them if it's sensitive to air, if it's sensitive -- things such as that. And in this case, the factors that really came into place was the fact that it was sensitive when I percussed it or tapped it. And when I palpated around the roof area, it suggested that he -- he also had pain. And usually that's caused from an abscess formation or an abscess forming in the area. That's what accounts for the sensitivity when you palpate around the tooth. And also, for that matter, even when you percuss or tap the tooth, there is an abscess that's forming.

Again, as I said, I didn't mention anything about the x-ray, because the x-ray was sort of inconclusive as to actually showing an abscess forming. But, again, people can have abscesses -- or patients, I should say, can have abscesses that do not reveal themselves by x-ray techniques. But, on the other hand, they are very much present and have to, of course, be dealt with similarly.

Q. Okay. Doctor, am I correct that -- well, let me ask it this way: I note that in your record entry here, there is no indication of a response to whether the tooth was sensitive to air, whether it was sensitive to cold. Am

I correct, then, that that means that it was not sensitive to those things?

A. I would say that is correct, Mr. Devlin. That is correct. Everything I put down under my observation were those things which -- is what I observed in his mouth clinically that was -- that was of an abnormal nature.

(Discussion held off the record.)

Q. Doctor, before -- when Mr. Hill came in, and you're going through this exam -- and, again, I know we haven't gotten to the entry yet where you actually extract the tooth. But prior to that, did you review the entry from Dr. Rose at USP Lompoc?

A. Quite frankly, I can't remember if I did or not, Mr. Devlin. I can't really -- I don't really recall.

Q. Okay. Understanding that you don't have a specific recollection in this case, do you have a general practice of whether or not you would review that type of entry in a chart prior to seeing or treating a patient?

A. Generally, I would say yes, I do have a practice of doing that. But I cannot remember if I did so in this case, to be frank or honest with you.

Q. The fact that the -- Dr. Rose's entry appears in the medical record that we have, the dental record we have, does that indicate that it was available to you?

A. Yes, that is correct.

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Q. All right. Okay. Once you made the conclusion -- or the diagnosis that Mr. Hill had irreversible pulpitis, what did you -- what did you tell him?

A. I usually explain to the patient their situation; that the reason they are experiencing the problem -- their pain, which is usually the problem. And with him, I explained to him why he was experiencing this pain. I explained also to him that there was not anything else that could be really performed, now that I had examined his tooth and taken an x-ray, except that the pain was going to worsen and that the problem that he was experiencing would worsen, and that the choice that he had now was for us to take the tooth out so that he would not continue to experience the pain and that his problem would not worsen overall healthwise.

Q. Okay. With a diagnosis of irreversible pulpitis, what are the options for a patient, just in general? And, actually, in general, notwithstanding for a moment any restrictions placed upon you or Mr. Hill as a result of him being in a correctional facility and being under the guidelines. But just from a purely dental/medical perspective, what are the options for a patient who has irreversible pulpitis of the type from which Mr. Hill was suffering?

A. There are two options, really, available. The

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first option, of course, is to extract the tooth; take the tooth out. The second option is to -- is to perform a root canal procedure on the tooth, in which case the pulp of the tooth is completely removed and the area that the pulp once occupied is now filled with a specialized type of material that completely seals up that whole area. And then at the end of that procedure, usually -- particularly with teeth that is what we call posterior teeth, which are the teeth that fall -- or that occur directly behind the canine tooth in the mouth, are crowned or capped, as is sometimes -- this procedure is called. The anterior teeth or the teeth in the front of the mouth don't always have to be crowned, although it is still a recommendation to -- we like to see them crowned, but we don't press the patient as hard to have them crowned as we do for a tooth that is in the -- is a posterior tooth, such as was the case with Mr. Hill's tooth, which was No. 13.

Q. Okay.

A. The -- the logic in the crowning of the tooth or the capping of the tooth is that it protects the tooth from fracture. Teeth that have root canal therapy performed on them tend to become more brittle and, therefore, are subject to fracture quite more easily than a normal tooth, if you will, in the mouth or a tooth that still has the pulp within it.

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This fracture can occur at the slightest provocation. It can be from eating a very crisp piece of bacon to munching on some peanuts, to biting down on a piece of hard gristle in some meatloaf or hamburger. Therefore, we always encourage or tell patients ahead of time that you must have the tooth crowned in order to protect it; otherwise, they are going to still lose the tooth. And the extraction of the tooth may even be more difficult after having had the root canal therapy performed, because very often one of the side effects of performing root canal therapy is that the tooth -- the root of the tooth, if you will, tends to become sort of fused to the socket, the bony socket in which it resides; what we call ankylosis. And I'll spell that for the court clerk. Which is A-N-K-Y-L-O-S-I-S. Ankylosis.

Therefore, those are the two options that are available to the patient.

Now, to follow up with the extraction, the extraction, after it is performed, usually the tooth is replaced generally through a bridge or through a partial denture or now, of course, through an implant.

Q. Okay. Understanding that those are the two options, extraction or a root canal, and in this case, followed by a crown, did you describe both of those options to Mr. Hill?

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A. As my memory serves me again, Mr. Devlin, I believe that I did, with a notation, of course, that, you know, root canal would not be performed because of the fact that the Federal Bureau of Prisons does not provide for the manufacture or for the tooth to be treated with a crown following the root canal therapy.

Therefore, for us to perform a root canal therapy on the tooth and not put a crown on it would simply subject him to a -- at a later date having to return from the tooth fractured on him to be removed.

Q. Doctor, obviously, one of the questions I have is where -- where that guideline is that says that Mr. Hill would not have been eligible for a crown. And, quite frankly, this seems as logical a place as any for us to get into that. I have looked through both the program guidelines attached to your declaration and the ones produced in discovery here. I believe the ones in your declaration were from 1996, and the ones in discovery were dated in 2005.

I guess as an initial question, which -- which were in effect at the time Mr. Hill's tooth extraction occurred?

A. At the time his tooth extraction occurred, I'm -- could you just wait for one second, Mr. Devlin?

Q. Absolutely, Doctor.

(Discussion held off the record.)
A. Okay. To get back to you on that question, Mr. Devlin --
Q. Yes, Doctor.
A. -- I -- honestly, we're not aware that there's anything in print that addresses that. But the standing move is that -- well, I guess I should approach it from this point of view: The laboratories that the Federal Bureau of Prisons has, none of them produce crowns for teeth. They are not equipped to produce crowns for teeth. They're equipped to produce partial dentures, they can produce full dentures, they can produce, you know, night guards, they can even produce the sports bite guards, if you will.
But none of them, that I -- as I know at the time that I saw Mr. Hill, or even, for that matter, when I left the last year in November of 2005, are equipped to make crowns for teeth.
(Discussion held off the record.)
Q. Doctor, I don't know if you completed that previous answer. I certainly have other questions, but I want to make sure that you're done.
A. No, not quite.
Q. Fair enough.
A. The -- at the time of the -- the -- of the program statements that were in effect at that time, one of the

things that -- for routine dental treatment, which is what Mr. -- well, I'm sorry -- what is generally proposed or given to patients who are on the list to get regular treatment for their teeth, cast crowns, if you will, and bridges are not normally authorized, and they are considered, actually, accessory care. And accessory care, in the program statement, again, is not usually available to the inmate population.
MR. COLVILLE: Why don't you reference the page.
A. 6000.05. The date is September 15, 1996. And this is Chapter IV. It's Roman numeral IV, Page 27. That's what I'm referencing.
MR. COLVILLE: Neal, more specifically, that reference can be found in Dr. Collins' affidavit at Exhibit D-2.
MR. DEVLIN: D-2. Okay.
MR. COLVILLE: I believe so, Neal. And I believe it's Page 27 of D-2.
MR. DEVLIN: Let me do this, if it's acceptable to you, Mike and Doug: I am going to take this single page out and mark it as an exhibit. Is that all right, if we don't do all of D-2? I --
MR. COLVILLE: I --
MR. DEVLIN: Go ahead.
MR. COLVILLE: I have no problem with doing that,

so long as you're willing to accept my objection to the extent it is necessary to read any other parts of the program statement with reference to this page. But for purposes of this deposition -- or this -- you know, moving this along, I have no problem with you making it an exhibit and questioning Dr. Collins about it.
MR. DEVLIN: Okay. Let's do that. Let's mark Page 27, Chapter IV of the September 15, 1996 version of PS-6000.05 as Collins Exhibit 2, with the understanding that it is one page out of a multi-page document, and that, you know, can be read in context as appropriate.
MR. COLVILLE: That sounds fine to me.
(Collins Deposition Exhibit 2 marked for identification.)
BY MR. DEVLIN:
Q. Doctor, before we get into Collins No. 2 and the accessory dental treatment there, I also noted that accessory dental treatment was also addressed on Page 15 of that same program statement. If you have that available, could you flip to that.
A. (Witness complies.) Okay, Mr. Devlin, I have it.
Q. And feel free to review that portion of it. My question is going to be -- I guess my question is, why is

it -- why is it in there twice? Is there a difference between Page -- understanding that the language is different, but is the accessory dental treatment addressed at Page 15 different than the accessory dental treatment provisions on Page 27 that you referred to?
A. Just give me one minute here, Mr. Devlin.
Q. Certainly.
(Discussion held off the record.)
A. Mr. Devlin, apparently I cannot really state why the entry is in the program statements twice.
Q. Okay. Well, what I'd like to do, then, Dr. -- well, let me ask you a couple of questions about Page 27. As I'm reading through this, would a -- I'm trying to figure out what a crown is on these things. And is it a -- I believe I read in here -- oh. So it is fixed prosthetics? Would that be considered a crown?
A. That is correct.
Q. Am I also correct that at the end of Section F on Page 27, it does read -- and I'll simply read this into the record, Doctor, and tell me if I've read it incorrectly. "If the CDO determines such treatment may be warranted, approval must be obtained from the chief dentist and the medical director."
I guess the initial question, did I read that last sentence correctly?

A. That is correct.
Q. Okay. And you were the chief dental officer, correct? I mean, that's what CDO refers to?
A. That is correct.
Q. Okay. Am I correct, then, that if you had determined that a fixed prosthetic or a crown may be warranted in Mr. Hill's case, there was a procedure you could go through to try to get the appropriate approval to allow for that to occur? Is that right?
A. That -- that is correct.
Q. Okay. Did you ever go through that procedure in cases other than Mr. Hill's?
A. No, I did not.
Q. Okay. And broadening it up even beyond crowns, any of the accessory dental treatments provided in Paragraph F, did you ever make any request to the chief dentist or medical director to allow the use of any of those accessory treatments?
A. No, I did not.
Q. What would have been the time, if you know, with the understanding that you never had made a request before, but are you aware of the time it would have taken to make that request to the chief dentist and the medical director and to get a response from them?
A. Oh, I can't really say, Mr. Devlin, since I had

never done it -- or never did it. I would hazard a guess that perhaps maybe --
MR. COLVILLE: Let me ask you not to guess. If you don't know --
A. Okay. I really don't know.
Q. Okay. So going back to what you told Mr. Hill, am I correct, then, that it's your recollection, based upon your notes and whatever recollection you have, that you told him that he had irreversible pulpitis, you explained to him that there could either be an extraction or a root canal, but that a root canal really could not occur because it would not be possible, in your opinion, for a crown -- for him to get a crown? Is that right?
A. I told him that I -- the Bureau of Prisons does not usually -- does not provide for crowns to be manufactured, and that he would have to have a crown on that tooth in order to protect it if a root canal were to be performed.
Q. Doctor, before getting to, then, the extraction procedure, I have one other question. How would -- with the understanding that you diagnosed irreversible pulpitis based upon the pain Mr. Hill was experiencing, the physical condition of the tooth, and the length of time that the filling was in -- and that's my understanding of the bases of that diagnosis -- what would have been the difference if

this had been reversible pulpitis?
A. If it had been reversible pulpitis, the -- the tooth -- well, that -- reversible pulpitis itself is, of course, a state where the tooth -- it would be -- was eventually -- would at some point stop hurting within a reasonable period of time, which I would state probably within two or three days, and then the patient would not any longer have any treatment problem with it. But in this particular state, considering the depth of the decay that had been present and the size of the filling that was present and the fact that he was experiencing sensitivity above the root, which was the palpation, this was definitely irreversible pulpitis.
Now, reversible pulpitis, he quite possibly -- in fact, he would not have had the sensation of sensitivity when I pressed or palpated around the root.
Q. Okay. Doctor, can you complete taking me through your entry on November 27, 2002.
A. All right. Under the "P" for procedure, I then injected Mr. Hill with the Lidocaine -- and that's L-I-D-O-C-A-I-N-E -- in order to have anesthesia in the area. And at that time I then extracted his tooth with forceps. And as I put down, I had elevator -- well, I had elevator and forceps extraction, which means that the tooth was first loosened with the elevator, and then it was

removed with the forceps. He was allowed to remain in the chair to ensure that he would not hemorrhage. And the entry I have here is "stasis", which means stasis of the blood was achieved. He -- he did not require sutures, so I had no sutures. PIOG stands for postoperative instructions given, and he was given those instructions both verbally or orally and in a written document as well. It was discussed with him and he understood what was on this statement and what we had spoken with him.
A prescription was then written for him for the penicillin and for Motrin, which is Ibuprofen. The penicillin was given to him for the infection and abscess that was forming there. And the Motrin was given to him to alleve [sic] him from the pain of the extraction and also from the infection that was -- had been causing the pain.
Q. Did you discuss with Mr. Hill whether or not a bridge or partial denture might be possible after the extraction?
A. I tend to recollect that I believe I discussed with him a partial denture could be made for him to replace that tooth.
Q. Okay. Obviously, that's not in your note here. So what do you recall about that conversation?
A. I -- I don't remember a whole lot, except that I tend to remember that he asked me, after the tooth was out,

what could he do. And that's -- and I said, well, a partial denture would be the answer to replace that tooth. Generally, I also look in the records to see if there are other missing teeth and advised the patient that when the partial denture would be made, it would not replace just that tooth, but any other missing tooth in the particular jaw that was involved.

Q. And in your review of Mr. Hill's dental record, did he have other missing teeth?

A. Yes, he did.

(Discussion held off the record.)

Q. Doctor, I just have a couple more questions. With respect to irreversible pulpitis, does reversible pulpitis eventually become irreversible pulpitis, if that makes sense?

A. Ordinarily, it -- it -- it really depends, Mr. Devlin, on what is causing the problem with the tooth in the very beginning -- or at that time.

For instance, if a person drinks a super-cold glass of water or soda and they allow it to hit their front teeth long enough or maybe a tooth in their mouth that has a large metal filling in it, such as silver or gold, they can thermally shock that tooth. And after that, the tooth will then be very sensitive to any kind of temperature changes at all. If the person opens their mouth and in the wintertime

it hurts them, that would be a reversible pulpitis that occurred as a result of thermal shock.

Other problems are also occlusal problems. If the person bites down, say, on a -- likes to eat crabs, and they bite down on a piece of shell and they bite hard on it, that's considered occlusal trauma, or trauma that has occurred as a result of a person biting or chewing. That can also cause the tooth to suffer an irreversible pulpitis, something such as that.

When you get into aspects of decay, again, that then creates a different picture, because in Mr. Hill's case, considering the x-ray that demonstrated a very deep cavity, not to mention the x-ray that Dr. Rose had taken, that -- now you have the nerve infected with bacteria, and I think I can safely say that 99 -- 99, 100 percent of the time, that tooth is not going to recover, because the pulp within the tooth has a very poor blood supply, but a very necessary one. And it's just enough to keep the pulp alive and viable, but it doesn't really sufficiently provide a heavy enough blood flow that if he had been put on, say, the penicillin that I prescribed to him for, say, maybe six weeks or even six months, that it would clear up. It would not clear up. Once the pulp is engaged with a bacteria, there's no coming back, really.

Q. Okay. Doctor, if you would turn to Collins

Exhibit 1, which is the medical record, looking at Dr. Rose's entry, the fourth line down, I notice that there's an "A:", then the word "caries" is No. 13, then the word "restorable". What is your understanding of what -- in reviewing that medical record, do you have an understanding as to what Dr. Rose meant when he indicated that -- the word "restorable"?

A. When Dr. Rose wrote that, at the time he felt that the tooth could possibly be saved, perhaps. And "restorable" simply means that the patient would have -- that the tooth can have a filling placed in it.

In this case, when you write that, you usually mean a permanent filling put in place. And that's what Dr. Rose had written there.

Q. All right. Assuming that Dr. Rose's diagnosis on January 2001 was correct and that the tooth could have been restorable, is it fair, then, to say that sometime between January 2001 and November 27th, 2002, in your estimation, that tooth became nonrestorable?

MR. COLVILLE: Object to the form. But go ahead, Doctor.

A. No. The tooth, from the time that this was placed -- that he placed the filling, the temporary filling in Mr. Hill's tooth, to the time that I saw him on November 27th, the -- in fact, I guess what I would like to

do is to go back to what I had said in the original testimony. The horse was already out the barn and the door was closed, but it was too late.

The fact that -- that this tooth presented with a very deep cavity -- and that's indicated where he says "caries" under the "A" which you referenced, Mr. Devlin -- and he then later states that he -- he has on -- under the procedure, "P", on the second line he has No. 13, then a dash, "gross decay removed". That generally means a large amount of decay was removed, indicating that, again, this cavity had progressed to a very deep depth within the tooth. And, consequently, he then proceeded to put a temporary filling in place so that, of course, hopefully at a later date, if the tooth accepted this temporary filling, he would then be able to place a permanent filling.

Q. Well, I guess I'm a little confused, then. So are you saying that you believe that as of January 2001 this tooth was not restorable?

A. I can't really make that decision. The -- again, when you're dealing with decay that has progressed as far as it had -- and what Dr. Rose was attempting to do was to save the tooth, if at all possible. And that's why a temporary filling was put into place. Temporary fillings are kinder and gentler, if you will, to the pulp in the tooth, which is the focus here, because of the fact of the close proximity

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that the cavity had -- and where it had occurred in relation to the pulp itself. The temporary filling was put into place to give the pulp possibly a chance to recover from the insult of the decay.

The fact that Dr. Rose wrote "restorable" simply means that if the pulp is able to recover from the insult of the decay and from the further insult of removing the decay, and there is no pain problem later associated with it, then you can go and put a permanent filling in place.

Q. Okay. Doctor, I have one more set of documents I'd like to go over, and those are the documents that I e-mailed to Attorney Goldring earlier this morning. And there are two pages, both, I believe, entitled Inmate Request to Staff forms. Do you have those there?

A. Yes, I do.

Q. Okay. And the first one I'm looking at is dated 12/31/01, and the second one I'm looking at is dated April 8th -- I'm sorry. The first one I'm looking at is dated 12/3/2001, and the second one I'm looking at is dated April 8th, 2002. Are those the same as the ones you are looking at?

A. That is correct.

MR. DEVLIN: I would then ask that the court reporter mark those as Collins Exhibit 3 collectively.

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(Collins Deposition Exhibit 3 marked for identification.)

MR. DEVLIN: And, actually, in the interest of time, Mike, I'll just move on, and Janis can mark these when you are doing your questioning.

Q. Doctor, are these the cop-out forms that you referred to before that should be used for routine care?

A. That is correct.

Q. And so am I correct, then, in looking at this, that based upon just these forms, Mr. Hill requested routine dental care both on December 3rd, 2001 and April 8th, 2002? Is that correct?

A. That is correct.

Q. And do you recall whether you reviewed these forms when they came in?

A. Honestly, I cannot recall, due to the fact that we have -- get -- get on an average approximately nine to 10 cop-outs a day, Mr. Devlin. I can't say that I actually recall reading these, to be quite frank with you.

Q. Okay. And that's certainly understandable. Based upon your general practice, do you believe you would have read them when they came in?

A. Yes, I do.

Q. Okay. Now, I see here on the April 8th, 2002 request, under "Disposition", it indicates that Mr. Hill was

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No. 184 on the -- and I can't read that next word --

A. That word -- yes.

Q. Is that prophy. list?

A. That is correct.

Q. Is that short for prophylactic?

A. That -- that is short for prophylactic, right. And that simply means, Mr. Devlin, that he's on the list to have his teeth cleaned.

Now, at FCI McKean, we did not separate out cleaning from routine care. That is simply the first step in routine care for the patient.

Q. Okay.

A. So -- and that's why, just to make sure -- just to clear up anything, because there are institutions where a cleaning is -- is not actually a part of the routine care the patient receives. It's a part indistinct.

Q. Do you see that on the April 8th, 2002 request form, in the portion presumably filled out by Mr. Hill, the third line -- third line down, in reference to the temporary fillings he indicates, "Both are degenerating," quote, "getting worse," close quote.

Do I understand your testimony correctly that that is inconsistent with your physical examination of his teeth in November of 2002?

A. That -- I only looked at the tooth, which is No.

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13, that had the temporary filling in it.

Q. Um-hum.

A. He did reference to -- his reference to a second tooth that has a cavity in it, I did not observe or examine that tooth at the time that he entered into the clinic, because he did not complain about that. He complained about No. 13, and this was a sick call visit, so that's what I addressed my attention to.

Q. Okay.

A. And if I -- and if I can continue. The -- at that time that I did examine him in the clinic, the tooth which had the temporary filling in it had not degenerated. In fact, it was in excellent condition, as well as the tooth itself, clinically.

Q. Okay. Do you have any idea as to what Mr. Hill might have been experiencing that would have led him, certainly as a nontrained -- as someone not trained in dentistry, to believe that his temporary filling was degenerating?

MR. COLVILLE: Object to the form.

A. He might have -- sometimes a temporary filling might have a little flake. Sometimes there is occasional -- an excess part of the filling that might remain after the doctor has finished adjusting it. And on occasion that might flake off and the patient might be aware of that and

feel that the filling might be wearing down or getting worse, when, in fact, it is not.

Q. In general, about how long would it have taken Mr. Hill to be seen from the routine care list, if he were No. 184 on that list?

A. Again, it's -- it depends on the -- on a few factors, Mr. Devlin. They -- the list is subject to the inmates coming and the inmates leaving. Some people on the list who were ahead of him would often be transferred to another location, and they would get taken off the list, and he would, therefore, move up on the list even faster.

So I would hazard a guess right now that it's really kind of hard to say, but maybe possibly 11 or 12 months.

Q. And, finally, Doctor, with Mr. Hill having come to FCI McKean from USP Lompoc -- therefore, an intrabureau transfer -- was there any protocol whereby he would be seen for a dental examination as a result of that transfer?

A. Usually Mr. -- the patients -- the inmate, when they are transferred in from another institution, provided they were already screened at that institution -- they were not just held there temporarily -- he would not be seen in the dental clinic if he had been screened and examined already at another institution prior to his coming to FCI McKean, or for that instance -- for that matter, any other

institution as well. The -- it would sort of be redundant or repetitive. And the main thing is that he was examined within a certain period of time, and that was done at USP at Lompoc.

MR. DEVLIN: That's all the questions I have, Doctor. Thank you.

THE WITNESS: Okay, thank you.

CROSS-EXAMINATION

BY MR. COLVILLE:

Q. Doctor, I have a few questions. And I want to reference Exhibit 1, the 11/27 notation. You were questioned by counsel as to whether or not you discussed with Mr. Hill whether there were complaints of being sensitive to air or having pain when he chewed.

With that in mind, I note that you specifically quote in the subjective -- subjective portion of your note here that Mr. Hill told you "my tooth aches".

A. Yes.

Q. Did Mr. Hill tell you that his tooth was sensitive to air or that he was having problems when he chewed? And if -- if he did, would you have made note of those statements to you in this note?

A. He did not, as I recall, say that his tooth was

sensitive to air. I can't remember if he said it was sensitive to chewing or not. But, again, as you said, Mr. Colville, if he had said that, I would have put that down under the observations.

Q. Making reference to Exhibit 2, the program statement, again, counsel read from Page 27 of that document in Paragraph F, your accessory dental treatment, and read the statement that, "If the CDO determines such treatment may be warranted, such approval needs to be obtained from the chief dentist or the medical director." Do you remember reading that?

A. Yes, I do.

Q. And you agree with that statement, at least as it relates to --

A. That is correct.

MR. COLVILLE: Neal, if you wouldn't mind, if you would also include as Exhibit 2 Page 15 of the document. And I want to refer Dr. Collins to that page presently, and we'll call it, again, Exhibit 2, but Page 15 of that exhibit.

Q. And if you look under Paragraph 3(b), this portion of the program statement reads, "If the CDO determines that such treatment may be warranted, approval must be obtained from the chief dentist and the medical director, through the warden and the regional director." And I guess my question

to you, Doctor, is that what you understood the procedure to be at the time that you were treating?

A. That is absolutely correct.

Q. Okay. Let me ask you this: The question that wasn't asked was why didn't you elect to use this treatment versus the treatment of extraction?

A. Well, first, there's a time -- time frame involved. I had no idea how long it might take for approval to go through the normal administrative pathways, if you will, and then come back to me.

In the meantime, the patient's state could be also worsening, as now he is already suffering pain, and there is a possibility, a strong indication of an abscess forming. So also the fact that the tooth was so badly destroyed already -- approximately 50 percent of the crown of the tooth had already been destroyed -- and should a crown even be considered, an interim procedure would have had to have been performed between the root canal and the actual preparation of the tooth for a crown. And that interim procedure is called a post and core. So the tooth would have had to have first been treated for a root canal and then would have had to have had a post and core buildup. And, finally, then it would have had to have been prepared for a crown.

Finally, if I might add also, something that I

failed to bring out in earlier questioning of you, Mr. Devlin, is that root canal therapy is not a hundred percent successful. It does have a five percent failure rate.

Q. In this case, where you diagnosed Mr. Hill with having irreversible pulpitis, was extraction of that tooth acceptable dental treatment within the standard of care?

A. Very much so. Yes it is and was.

Q. Let me ask you a couple questions about what --

(Discussion held off the record.)

Q. Did Mr. Hill ever come to you prior to November 27th, 2002 and tell you that he was having pain within Tooth No. 13?

A. No, he did not.

Q. Did you ever see Mr. Hill in a sick call visit or an open house prior to November 27th of 2002?

A. I did not see him in a sick call visit at all, and at that time we had not really quite started open house -- the institution open house. So I did not see him at all.

Q. Do you recall when open house sessions began at the prison?

A. I believe that open house sessions began in the prison around or about in June or July of 2003.

Q. Which was after the extraction?

A. Exactly.

Q. So the first open house would have been after the fact in this case?

A. Exactly.

Q. Did anyone ever tell you prior to your treatment of Mr. Hill in November of 2002 that Mr. Hill had complained about pain in his tooth?

A. Only one person as I recall did mention to me that they had an inmate named Michael Hill who was having a problem, and that was his counselor, Ellen McNintch.

Q. And did you do anything as a result of being informed of this by the counselor?

A. I instructed her to have the patient come to sick call so that he could be examined.

Q. And, again, do you recall when this conversation took place?

A. I believe it was approximately the -- in either the latter part of August or the first part of September. I'm not quite clear.

Q. Between that time and November of 2002, did Mr. Hill ever report to sick call?

A. No, he did not.

MR. GOLDRING: I just have one question.

MR. COLVILLE: We have one question from Mr. Goldring.

CROSS-EXAMINATION

BY MR. GOLDRING:

Q. This is Mr. Goldring. And I'm referring to Page 2 of Exhibit 3, which is the April 8th, 2002 cop-out. And, Dr. Collins, I believe this cop-out was signed by Amber Douglas.

A. Yes.

Q. Do you know her?

A. Yes, I do.

Q. Can you identify who she is, exactly.

A. Amber Douglas was the first contract dental assistant that came to FCI McKean to work with me in the dental plan.

Q. And I'm looking at the response that she provided. Could you please read the last sentence of her response.

A. That last sentence states, "If you have any pain problems, though, come right to sick call."

Q. And did Mr. Hill come right to sick call?

A. No, he did not.

Q. Did you see him at any time between this response of April 8th, 2002 and November 27th, 2002, when you conducted the extraction?

A. No, I did not.

MR. GOLDRING: That's all I have.

MR. COLVILLE: Colville has one follow-up question with regard to that.

RECROSS-EXAMINATION

BY MR. COLVILLE:

Q. Doctor, what is your -- was that an appropriate response or disposition by Ms. Douglas to Mr. Hill's April 8th, '02 cop-out?

A. It was definitely in policy, yes. Yes.

MR. COLVILLE: That's all I have.

REDIRECT EXAMINATION

BY MR. DEVLIN:

Q. I just have a couple questions, Doctor, and if we get cut off, that's fine. If I don't get to these questions, I can live.

But, sir, if Mr. Hill was in the special housing unit at any period of time, would he be able to come to sick call?

A. No, he would not be come -- be able to come to sick call in the morning, but he would have access to a healthcare provider every day, because there is a -- what we call a mid-level healthcare provider, which is either a

physician assistant or a nurse practitioner. It can even be the clinical director or the staff physician who makes rounds in the morning and they make rounds in the evening. And they are -- are available for medical complaints. And at that time he could have made -- he would have been able to have complained to them about any difficulty that he was experiencing. In fact, I believe that is what happened when he came to me on November the 27th.

Q. And, Doctor, if I understand your testimony a while back in response to my questions correctly, am I right that during your time at FCI McKean, you never placed a crown on anyone's tooth?

A. That is absolutely correct.

Q. Okay. If you were to simply give me a very rough ballpark estimate, how many patients do you think you saw per year while you were at FCI McKean?

A. That's a hard question. By the way, it just flashed, we have five minutes left.

Q. Go ahead. Go ahead.

A. That's -- I -- I -- that would be a -- that's kind of hard for me to say. I would have to think on that a little bit. It was a good number, but I can't --

Q. Well, let me ask you this --

A. -- say right now.

Q. -- do you think you saw more patients on a daily

basis at FCI McKean than you did when you were in private practice?

A. I would say not really, because in private practice, we didn't have the restraints that you'd encounter in a prison system of time and of location with an inmate. But I -- so I would say I saw less in the prison than I did in private practice.

Q. While you were in private practice, did you ever place a crown on anyone's tooth?

A. Oh, yes. Yes, I did.

Q. Okay. Was that a fairly regular thing for you to do while you were in private practice?

A. Yes, it was.

Q. Okay. Also, based upon some of Mr. Colville's questions, am I correct, then, that notwithstanding the -- well, forget about the notwithstanding. One of the reasons you felt that a crown may not be appropriate here would be that even if you had decided to go through the procedure of contacting the chief dentist and the regional director, possibly through the warden and associate warden, to try to get approval for the crown, at the point in time that Mr. Hill came to see you, he was experiencing pain, and, therefore, to wait that period of time would have not resolved his pain problem and would have required you to perform a root canal on a tooth without crowning it, leading

it to all of the problems that you have previously testified to? Am I right on that?

MR. COLVILLE: Let me object -- let me object to the form. But go ahead, Doctor.

A. I think -- what you said, Mr. Devlin, is can I allow -- in other words, if -- I'm kind of unclear about your question. Could you restate it briefly.

Q. Let me rephrase it. My understanding of your responses to Attorney Colville was that one of the reasons a crown would not have been appropriate here was a timing issue, in that it would have taken, you believe -- and tell me if this is wrong. But it would have taken a period of time to get the appropriate approval, if you would even have gotten it. And because Mr. Hill was in present pain, it would not be able to wait that period of time, and, so, therefore, getting a crown really wasn't going to -- wasn't going to deal with the problem. Is that right?

MR. COLVILLE: Same -- same objection. But go ahead, Doctor.

A. Well, the problem here was that he had reached an acute state, and putting a -- attempting to wait for approval could also be a factor in the condition continuing to worsen.

Q. Okay.

A. That was one -- that was one of the factors that

I -- I had in the equation.

Q. So do you believe, then, that his condition was worsening since being seen by Dr. Rose at USP Lompoc?

A. Yes, I do.

MR. DEVLIN: Those are all the questions I have.

MR. COLVILLE: We're through. Signature waived.

(Deposition concluded at 11:58 a.m.)